UNITED
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General Assembly

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A/AC.105/C.2/SR.527
6 April 1990

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 527th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 April 1990, at 10 a.m.

Temporary Chairman: Mr. Martenson (Director-General of the United Nations Office at Geneva)

CONTENTS

Election of a new Chairman

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GE.90-60523/3212a

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The meeting was called to order at 11 a.m.

ELECTION OF A NEW CHAIRMAN

1. The TEMPORARY CHAIRMAN said that, in view of the recent resignation of Ambassador Stanislas Suja, Chairman of the Sub-Committee at its last session, he would preside over the discussions until the election of a new Chairman. It was his understanding that no consensus had yet been reached on that question. Against that background and so that informal consultations could take place, the most expedient thing might be to adjourn the meeting to give the Sub-Committee time to discuss the matter. If he heard no objection, he would therefore take it that the meeting was adjourned until the afternoon.

2. It was so agreed.

The meeting rose at 11.05 a.m.

UNITED
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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 528th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 April 1990, at 3 p.m.

Temporary Chairman: Mr. Martenson (Director-General)

CONTENTS

Election of the Chairman

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GE.90-60548/3189a

The meeting was called to order at 3.40 p.m.

ELECTION OF THE CHAIRMAN

1. The TEMPORARY CHAIRMAN suggested that informal discussions should be continued until a consensus could be reached on the choice of Chairman for the twenty-ninth session of the Legal Sub-Committee.

2. It was so agreed.

The meeting rose at 3.45 p.m.

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UNITED
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19 April 1990

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 529th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 3 April 1990, at 10.30 a.m.

Temporary Chairman: Mr. ZOUPANOS

Acting Chairman: Mr. WINKLER (Austria)

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Election of the Chairman

Adoption of the agenda and organization of work

Schedule of meetings

General debate

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GE.90-60557/6044A

The meeting was called to order at 11.05 a.m.

ELECTION OF THE CHAIRMAN

1. The TEMPORARY CHAIRMAN opened the meeting on behalf of the Director-General of the United Nations Office at Geneva and announced that the Sub-Committee had reached a consensus consisting of two elements, namely, that Mr. Vaclav Mikulka (Czechoslovakia) should be elected Chairman of the Legal Sub-Committee and that Mr. Hans Winkler (Austria) should be appointed to serve as Acting Chairman until Mr. Mikulka had arrived from New York.

2. Mr. KOPAL (Czechoslovakia) supported the proposal which had just been made and gave some biographical data on Mr. Mikulka, who was now acting chargé d'affaires of the Permanent Mission of Czechoslovakia to the United Nations in New York. Mr. Mikulka, aged 38, had studied at the Faculty of Law of the University of Brno, where he had subsequently been appointed assistant professor of international law before joining the Department of International Law of the Ministry of Foreign Affairs. As the Head of the Public International Law Section of that Department, he had taken part in a number of international conferences and in the work of several United Nations bodies, including the Sixth Committee of the General Assembly, as well as in the two diplomatic conferences on succession of States held in 1978 and 1983. In 1984, he had defended his doctoral thesis on succession of States. Since 1986, he had been chargé d'affaires of the Permanent Mission of Czechoslovakia in New York.

3. The TEMPORARY CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Committee decided to elect Mr. Mikulka to the office of Chairman and to appoint Mr. Winkler as Acting Chairman.

4. It was so decided.

5. Mr. Winkler (Austria) took the Chair.

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

6. The ACTING CHAIRMAN said that, pending Mr. Mikulka's arrival, he would do everything he could to ensure that the Sub-Committee's work and that of the working groups in particular began as soon as possible. He informed the Sub-Committee that he had received communications from Cuba, Greece and Spain in which those countries had asked to be allowed to take part in the Sub-Committee's meetings. Although it was the prerogative of the Committee on the Peaceful Uses of Outer Space to recognize observer status, he suggested that the representatives of Cuba, Greece and Spain should be allowed to take part in the Sub-Committee's formal meetings and to ask the Chairman for permission to speak if they wished to make a statement.

7. It was so decided.

8. The ACTING CHAIRMAN drew the attention of the members of the Sub-Committee to General Assembly resolution 44/46 entitled "International co-operation in the peaceful uses of outer space", on the basis of which the

secretariat had prepared the provisional agenda for the current session (A/AC.105/C.2/L.176). If he heard no objection, he would take it that the Sub-Committee adopted the agenda.

9. It was so decided.

10. The ACTING CHAIRMAN said that, in accordance with the General Assembly's recommendations, the Sub-Committee had to set up working groups that would be open to all its members for the consideration of item 3 (Nuclear power sources) and item 4 (Definition of outer space and the geostationary orbit), as well as a working group on item 5 (Outer space benefits), which would be convened in 1991. If he heard no objection, he would take it that the Sub-Committee decided to establish those three working groups.

11. It was so decided.

12. The ACTING CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Committee decided to reappoint him as Chairman of the Working Group on Nuclear Power Sources.

13. It was so decided.

14. The ACTING CHAIRMAN, referring to the Working Group on the Definition of Outer Space and the Geostationary Orbit, said that Mr. Lagorio (Argentina), who had chaired the Working Group at the Sub-Committee's past two sessions, was unfortunately not present at the current session. Following consultations, it had been decided to appoint Mr. E. Zawels (Argentina) to replace him. If he heard no objection, he would take it that the Sub-Committee decided to elect Mr. Zawels as Chairman of the Working Group on the Definition of Outer Space and the Geostationary Orbit.

15. It was so decided.

16. The ACTING CHAIRMAN, referring to the chairmanship of the Working Group on agenda item 5, suggested that the consultations should continue until the officially elected chairman of the Sub-Committee had arrived.

17. It was so decided.

SCHEDULE OF MEETINGS

18. The ACTING CHAIRMAN drew the Sub-Committee's attention to the provisional schedule of meetings set out on page 2 of document A/AC.105/C.2/L.176. Before the Sub-Committee considered that provisional schedule, he would make a few comments on the use of the conference services made available to the Sub-Committee. In view of the high cost of such services and the Organization's current financial problems, the General Assembly had requested the Committee on Conferences to oversee the utilization of conference services by United Nations bodies in order to ensure that optimum use was being made of those services.

19. At each session, the Legal Sub-Committee had used less than 75 per cent of available conference resources, that figure being regarded by the Committee on Conferences as the minimum level of efficiency in that regard. There had,

however, been a positive trend in the Sub-Committee, which had used only 42 per cent of the resources made available to it in 1986, while the figure had risen from 57 per cent in 1987 to 59 per cent in 1988 and 67 per cent in 1989. Following an exchange of letters by Mr. Suja, outgoing Chairman of the Legal Sub-Committee, and Mrs. F. Frieesnigg, Chairman of the Committee on Conferences, Mr. G.I. Oudovenko, Chairman of the Special Political Committee at the forty-fourth session of the General Assembly, and Mr. E. Wyzner, Under-Secretary-General for Conference Services and Special Assignments, photocopies of which were available to the members of the Sub-Committee for their information, Mr. Suja had made the following arrangements aimed at improving the efficiency of the use of the conference services made available to the Legal Sub-Committee: (a) the Sub-Committee and its working groups should begin their meetings at the scheduled time, even if there was no quorum (14 members); (b) the Department of Conference Services should be notified as early as possible, preferably 24 hours in advance, whenever it was anticipated that any of the services usually provided would not be required; (c) informal consultations should not interrupt the work of the Sub-Committee or its working groups; (d) the general rule for annexing documents to the Sub-Committee's report should be that a document would normally be annexed, if at all, only to the report of the session at which it had first been submitted, but not to later reports; (e) the Sub-Committee should not hold plenary meetings in the afternoons when the agenda items on nuclear power sources and on the definition of outer space and the geostationary orbit were being considered; the working groups on those items should meet instead; (f) delegations wishing to speak at the Sub-Committee's next plenary meeting should inform the Chairman of their intention before the adjournment of the preceding plenary meeting; if there were no speakers, the next plenary meeting should be cancelled so that a working group might meet; (g) the Sub-Committee and its working groups should try to schedule informal consultations at which conference services would not be used; to that end, they should decide as early as possible whether it was feasible to cancel in advance some of their formal meetings so that interested delegations might hold informal consultations. That measure, if adopted, should not preclude resorting to unscheduled informal consultations following a decision of the Sub-Committee or a working group, if such consultations were deemed necessary so that progress could be made in deliberations.

20. Some of those measures had already been adopted by the Sub-Committee at earlier sessions. Measures (e) and (f) were designed to reduce the number of plenary meetings of the Sub-Committee in favour of working group meetings as a means of saving the resources used for the preparation of summary records, which were provided for the Sub-Committee's meetings, but not for meetings of working groups. With regard to measure (g), he suggested to the Sub-Committee that six formal afternoon meetings, two for each substantive agenda item, should be replaced by informal consultations. That suggestion was, moreover, already reflected in the provisional schedule of meetings. He also noted that, in reply to Mr. Suja, Mr. Wyzner, Under-Secretary-General for Conference Services and Special Assignments, had expressed the view that the proposed arrangements were well designed and would further enhance the Sub-Committee's use of conference resources. At its August 1989 session, the Committee on Conferences had agreed on some changes in the methodology currently used in assessing the overall use of conference resources by United Nations bodies. It had been decided that statistical data on the use of resources by each deliberative body should include information on informal meetings, as well as on time lost owing to the late start or early ending of meetings. The

Committee had also decided that the chairmen of intergovernmental bodies should be invited to request interpretation services, to the extent possible, for informal meetings. Interpretation could be provided for such informal meetings if they were scheduled within the context of regularly scheduled meetings. For example, a formal meeting would be called to order and immediately suspended to allow for informal consultations which would use the scheduled conference services. If informal meetings were to be held outside the scheduled meeting, in other words, before the start or after the adjournment of a meeting, the conference officer should be duly informed so that the situation could be reflected in the statistics and not included as time lost owing to the late start or early endings of meetings. In his opinion, the Sub-Committee should take account in its work of those decisions by the Committee on Conferences. Before proposing that the Sub-Committee should agree to the above-mentioned arrangements and the schedule of meetings, he requested the Secretary of the Sub-Committee to read out the amendments to the schedule to be made because the Sub-Committee was behind in its work.

21. Mr. BASNAYAKE (Secretary of the Legal Sub-Committee) proposed that, since the Committee was behind in its substantive work, the following changes should be made in the provisional schedule of meetings contained in document A/AC.105/C.2/L.176 (p. 2):

"Date	Morning	Afternoon
Monday, 2 April	(cancelled)	(cancelled)
Tuesday, 3 April	Election of the Chairman Organization of work	Nuclear power sources
Wednesday, 4 April	Nuclear power sources	Nuclear power sources 4/
Thursday, 5 April	Nuclear power sources	Nuclear power sources 4/
Friday, 6 April	Nuclear power sources	Nuclear power sources
Monday, 9 April	Definition/ Geostationary orbit	Definition/ Geostationary orbit 4/
Tuesday, 10 April	Definition/ Geostationary orbit	Definition/ Geostationary orbit 4/
Wednesday, 11 April	Adoption of the report of the NPS Working Group	Definition/ Geostationary orbit
Thursday, 12 April	Definition/ Geostationary orbit	Outer space benefits".

The rest of the session would be organized as provided for in that document.

22. The ACTING CHAIRMAN said that the Working Group on Nuclear Power Sources could meet if there was enough time left at the end of the current meeting. He also suggested that, since he was the Acting Chairman, the general debate should be postponed until the officially elected Chairman had replaced him, most likely within two days.

23. Mrs. GARCIA (Mexico) said that, since the Sub-Committee was already behind in its work, it might be advisable at present to allow delegations to make general statements if they were ready to do so.

24. The ACTING CHAIRMAN said that the Sub-Committee was already one day behind its original schedule and that its main goal was to start the work of the working groups as soon as possible.

25. Mrs. GARCIA (Mexico) said that her delegation, like many others, regretted that the beginning of the Sub-Committee's work had been delayed and shared the same concern as other delegations that the consideration of substantive issues should begin as rapidly as possible. Her delegation was in no way responsible for that delay and could not agree that the possibility of initiating a general debate should be further postponed until the new Chairman had taken up his post.

26. The ACTING CHAIRMAN said that delegations wishing to make general comments in the Sub-Committee would naturally have an opportunity to do so at the next plenary meeting.

27. Mrs. GARCIA (Mexico) said that her delegation preferred to speak in the context of the general debate at the current meeting.

28. The ACTING CHAIRMAN suggested that the Mexican delegation should make its statement after the organizational matters had been settled. If he heard no objection, he would take it that the Sub-Committee agreed to the arrangements which he had read out, as well as to the new schedule of meetings, as amended by the Secretary.

29. It was so decided.

30. The ACTING CHAIRMAN drew the Sub-Committee's attention to resolution 44/201 B, section III, which had been adopted by the General Assembly on 21 December 1989 and related to the place of the Sub-Committee's sessions, and proposed that, if necessary, that question should be considered in greater detail when the Chairman elected by the Sub-Committee had taken up his post.

GENERAL DEBATE

31. Mrs. GARCIA (Mexico), stressing once again how much her delegation regretted that the start of the current session had been delayed by what had euphemistically been called a "lack of consensus", said it was extremely dangerous that, in the Sub-Committee, as in other subsidiary bodies of the General Assembly, some delegations should be allowed to have veto power.

32. In more general terms, she noted that, even though a new substantive issue had been included in the Sub-Committee's programme since the last session, that did not mean that consideration had been given to all the legal problems arising out of the growing number of activities connected with the exploration and use of outer space.

33. In 1959, the Ad Hoc Committee set up under General Assembly resolution 1348 (XIII) had recognized in its report that the progress of such activities and of advances in science and technology would continually pose new problems relevant to the international legal order and modify both the character and the relative importance of existing problems. That report, which had been prepared at a time when the space era was just beginning, had foreseen that the question of ways of preventing contamination of or from outer space would have to be considered later.

34. The international press had recently contained reports of the loss of control over a spy satellite, which would probably break apart when it returned to the Earth's atmosphere. In her delegation's opinion, that incident and other similar incidents showed how urgent it was for the international community to make more determined efforts to establish more specific rules concerning space activities. In that connection, the Sub-Committee would inevitably have to deal with the question of space debris, which represented a growing danger.

35. It was also be necessary to start considering whether the "principle of transparency", which was all the fashion in the disarmament negotiations, was applicable to activities in outer space. The Convention on Registration of Objects Launched into Outer Space could serve as a good starting point for the work to be done in that regard, but its provisions had to be strengthened so that the international community might have a compulsory system for registration of objects launched into outer space that would make it possible to identify such objects and determine their general purpose and potential contribution to the exploration and peaceful uses of outer space.

36. In 1959, the Ad Hoc Committee on the Peaceful Uses of Outer Space had stated in its report to the General Assembly that the identification of legal problems necessarily entailed some consideration of possible approaches to their solution. In the final document of the first special session of the General Assembly devoted to disarmament, the international community had considered that, in order to prevent an arms race in outer space, further measures had to be taken and appropriate international negotiations held in accordance with the spirit of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. Shortly thereafter, the second United Nations Conference on the Exploration and Peaceful Uses of Outer Space held in 1982 had reaffirmed that the threats posed by the growing militarization of outer space were hampering efforts to encourage international co-operation in the use of outer space for exclusively peaceful purposes. It was worth noting that, since the time when the problem of the prevention of the arms race in outer space had been identified, the international community had still not begun to consider ways of solving it.

37. In paragraph 15 of its resolution 38/80, the General Assembly had requested the Committee on the Peaceful Uses of Outer Space to consider, as a matter of priority, the questions relating to the militarization of outer space, taking into account the need to co-ordinate its efforts with those of the Committee on Disarmament. Consideration should therefore be given to the possibility of requesting the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space to inform the Sub-Committee of the progress the Ad Hoc Committee was making in its work. Her delegation was convinced that such information might lay the foundations for machinery for co-operation between two intergovernmental bodies with a view to ensuring that outer space was used exclusively for peaceful purposes and did not become the theatre of an arms race. Lastly, she noted that the success of the Sub-Committee's work depended neither on the place nor on the length of its sessions, but mainly on the firm political will to make significant progress.

38. The ACTING CHAIRMAN invited all delegations which wished to make statements the following day to announce their intention now so that it could be decided whether a plenary meeting of the Sub-Committee should be held.

39. Mr. VERESHCHETIN (Union of Soviet Socialist Republics) said that his delegation was not opposed to the Acting Chairman's proposal that an exchange of views should be held when the newly elected Chairman had taken up his post. Since that proposal was still valid, his delegation was prepared to speak after the new Chairman had arrived, on the understanding that other delegations were still entitled to make general statements before the new Chairman had taken office.

40. Mr. BOYER (France), referring to the comment by the Mexican delegation on a proposal relating to disarmament, said that his delegation was of the opinion, as it had always been, that the Sub-Committee was not the appropriate body for discussions or statements on disarmament. In the present instance, the point was not to decide on a substantive issue, but to take account of the respective spheres of competence of existing bodies. His delegation had the most explicit reservations concerning the possibility of any hearing before the Sub-Committee of any body competent to deal with disarmament questions.

41. Mr. KOPAL (Czechoslovakia) said that his delegation was prepared to make a general statement the following day.

42. Mrs. STEHONWER (Netherlands) said that she supported the comments made by the Mexican delegation on the question of space debris, which her delegation also considered very important.

The meeting rose at 12 noon.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 530th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 April 1990, at 10.30 a.m

Chairman: Mr. MIKULKA (Czechoslovakia)

CONTENTS

Organization of work (continued)

General exchange of views (continued)

The elaboration of draft principles relevant to the use of nuclear power sources in outer space

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GE.90-60571/1802B

The meeting was called to order at 10.55 a.m.

1. The CHAIRMAN said that he was honoured to have been selected to lead the discussions of the Legal Sub-Committee and expressed his thanks to Mr. Winkler, the representative of Austria, for serving as Acting Chairman until he had arrived. With the understanding and support of delegations, he would do everything in his power to discharge his responsibilities to the satisfaction of all, and hoped to succeed in maintaining the climate of confidence in which the members of the Sub-Committee had carried out their work during Mr. Suja's term of office as Chairman.

ORGANIZATION OF WORK (continued)

2. The CHAIRMAN said that he had received a communication in which the Libyan Arab Jamahiriya had expressed a wish to take part in the meetings of the Sub-Committee. Although it was for the Committee on the Peaceful Uses of Outer Space to recognize observer status, he suggested that the representatives of the Libyan Arab Jamahiriya should be allowed to attend the Sub-Committee's formal meetings and to ask the Chairman for permission to speak if they wished to make a statement. That had been the practice followed in previous years when States which were not members of the Sub-Committee had informed it that they wished to take part in its meetings. If he heard no objection, he would take it that the Sub-Committee accepted his suggestion.

3. It was so decided.

4. The CHAIRMAN suggested that, in order to conclude the organization of work, the Sub-Committee should, in accordance with its normal practice, set aside some time at the beginning of the next few plenary meetings for the general exchange of views.

5. It was so decided.

GENERAL EXCHANGE OF VIEWS (continued)

6. Mr. KOPAL (Czechoslovakia), referring to the three substantive agenda items, said that the most progress had been made in the work on the elaboration of draft principles relevant to the use of nuclear power sources in outer space, as indicated by the draft principles which had already been formulated and were reproduced in annex III, part A, of the report of the Legal Sub-Committee on the work of its twenty-eighth session (A/AC.105/430) and by the reports of the Working Group on agenda item 3, which had made considerable headway in considering the outstanding issues. He nevertheless recalled that, at its thirty-second session, the Committee on the Peaceful Uses of Outer Space had welcomed the positive results achieved, but had urged the Legal Sub-Committee to make further progress in its work on the elaboration of draft principles relevant to the use of nuclear power sources in outer space in order to arrive at a final text as early as possible.

7. His delegation had also taken note with great interest of the report of the Scientific and Technical Sub-Committee on the work of its twenty-seventh session (A/AC.105/456) and of the report of the Working Group on the Use of Nuclear Power Sources in Outer Space on the work of its eighth session (A/AC.105/456, annex III). In its view, the work of that Working Group and, specifically, the conclusions it had arrived at and the recommendations it had

formulated, particularly for the safe use of nuclear power sources in outer space, were of great interest for the Legal Sub-Committee, as had been evident at the previous day's meeting of the Working Group on agenda item 3.

8. The Legal Sub-Committee should concentrate on the legal problems associated with the use of nuclear power sources in outer space and, in particular, on the problems of State responsibility and compensation which could not be settled by any other body.

9. If the Sub-Committee continued to work as efficiently as it had been doing, it should manage to complete a set of draft principles quite soon.

10. With regard to agenda item 4 on the dual issues of the definition and delimitation of outer space and the character and utilization of the geostationary orbit, his Government considered that outer space had to be delimited because the legal régimes which applied to outer space and to airspace were based on two different principles, namely, in respect of outer space, on the principle of freedom of exploration and utilization and, in respect of airspace, on the principle of sovereignty over the airspace above a State's territory. Even if no boundary could be drawn between outer space and airspace, an attempt might at least be made to agree on the meaning of the term "outer space" and, at the same time, to recognize the right of innocent passage for the space objects of all States over the territories of other States for the purpose of reaching orbit and returning to Earth, provided that such passage caused no adverse effect in the territory of the State whose airspace was used. His delegation was convinced that that approach was the best one, but was prepared to consider any other points of view which might be expressed during the discussions and any suggestions that might be made.

11. On the issue of the geostationary orbit, positions had changed somewhat in recent years even though major differences still existed. Efforts should be continued with a view to formulating a text which would take account of all aspects of the issue and make it possible to reconcile the points of view of the various groups of States. His delegation was prepared to listen with understanding to the needs of developing countries, which did not, for the moment, possess the economic, scientific and technical resources to make use of the geostationary orbit. It would give sympathetic consideration to the claims of countries requesting that account should be taken of their particular geographical situations, for it believed that there should be guaranteed access to the orbit for all. As the geostationary orbit was an important part of outer space, however, a legal régime had to be defined for that orbit which would guarantee its rational and equitable utilization in the interests of all States, large and small, developed and developing alike.

12. With regard to the consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, it was possible, even if it was still too early to guess what the outcome of that consideration might be, to begin to reflect on how future discussions should be conducted. The Sub-Committee might, for example, wish to define the legal content and the legal consequences of the basic principle embodied in article I of the 1967 Outer Space Treaty. In his Government's opinion, the main thrust of the consideration of the new item should be to strengthen and develop international co-operation in the exploration and

peaceful use of outer space. It should be possible, for example, to identify specific areas in which international co-operation could progressively be developed and to agree, for each area, on specific forms of co-operation and a legal framework adapted to the specific features of that area. All those issues should naturally be discussed taking the needs of the developing countries into particular account.

13. In any event, the title of agenda item 5 was broad enough that various issues related to the application of the principle it enunciated could be discussed, particularly the issue of debris, as proposed by the Netherlands delegation in document A/AC.105/C.2/L.171. Indeed, the increasing quantity of debris was a threat to the exploration and utilization of outer space. Steps should definitely be taken to avoid creating any more. While the Legal Sub-Committee could study the legal aspects of the problem, the Scientific and Technical Sub-Committee could consider the scientific and technical aspects. By joining forces, the two Sub-Committees would no doubt succeed in developing universally accepted principles aimed at protecting the space environment against pollution by debris.

14. Mr. SATOH (Japan) noted with satisfaction that, at its preceding session, the Sub-Committee had made progress in elaborating draft principles relevant to the use of nuclear power sources in outer space. At the twenty-seventh session of the Scientific and Technical Sub-Committee, moreover, a consensus had been reached on the issue of guidelines and criteria for the safe use of nuclear power sources and recommendations had been prepared on that particularly troublesome point.

15. With regard to principle 2, "Notification of the presence on board a space object of a nuclear power source", his delegation believed that it was particularly important for the presence of the nuclear power source on board to be notified to the Secretary-General, as notification could not fail to help build confidence in international relations. It was essential for States to be able to monitor space objects closely and prepare for any accident that might occur. As to the timing of such notification, his delegation preferred notification prior to launch; if, however, the safety assessment of space objects conducted according to principle 4 was made public prior to each launch, he saw no problem with notification as soon as possible after launching.

16. In respect of principle 3, "Guidelines and criteria for safe use", his delegation considered that the recommendations prepared by the Working Group of the Scientific and Technical Sub-Committee were a good basis and that the radiation protection targets set in those recommendations should be integrated into draft principle 3 as appropriate. Japan also warmly welcomed the working paper (A/AC.105/C.2/L.177) on the issue which Canada, France and the Federal Republic of Germany had submitted the previous day.

17. Concerning principle 4, "Safety assessment", his delegation continued to believe that launching States should make public the safety assessments of space objects with nuclear power sources on board. They should do so prior to each launch; they should include those safety measures which must be adopted in order to meet the guidelines and criteria set forth under principle 3; and the Governments of launching States should communicate the assessments through official channels to the Secretary-General of the United Nations.

18. Referring to the question of the definition and delimitation of outer space, he was of the opinion that there was no scientific or practical reason for delimitation. The lack of any definition had so far not created problems or been an obstacle to dramatic progress in the exploration and use of outer space in the past 30 years. There was no rationale for any delimitation not based on clear scientific criteria and future space activities were likely to be hindered by any such delimitation.

19. In the matter of the character and utilization of the geostationary orbit (GSO), his delegation thought it was perfectly obvious that the GSO was part of outer space and was accordingly governed by the Outer Space Treaty. Whereas the GSO was a limited natural resource and must be used efficiently and economically, the International Telecommunication Union was solely responsible for addressing questions relating to its use.

20. At its twenty-eighth session, the Legal Sub-Committee had reached a consensus on the method of work to be adopted in considering new agenda item 5, "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries" and, at its last session, the General Assembly had endorsed the Legal Sub-Committee's recommendation that a working group should be established in 1990 and convened in 1991. His delegation hoped that the discussions on that new item would give rise to an active and constructive exchange of views at the current and at future sessions.

21. It was essential for the working methods of the Legal Sub-Committee to be continuously reviewed in order to ensure that, together with the Committee and the Scientific and Technical Sub-Committee, it continued to play a principal role in the development of international space law. Rather than seek to set up a new international mechanism which might undermine the functions of the Committee and its two Sub-Committees, it was necessary to ensure that the three bodies could continue their work in a realistic and orderly manner free of political polemics.

22. Mr. HAMPE (German Democratic Republic) said it was encouraging to note that, at the beginning of the last decade of the millenium, States were increasingly tending to seek multilateral co-operation in order to solve the major problems facing mankind. The growing interdependence of countries and peoples required the systematic development and application of new forms of international co-operation in all areas. That was a challenge to be met by international law, of which outer space law was an integral part. In the present case, international co-operation in the exploration and use of outer space had to be specifically organized, as only by so doing would it be possible to give effect to the principle embodied in article I of the 1967 Outer Space Treaty.

23. His country's position in that regard derived from the 1987 report of the Brundtland Commission, according to which the future of outer space as a resource would depend not so much on technology as on the extent to which international institutions could be set up to manage that resource and, most of all, on mankind's ability to prevent an arms race in outer space. With that in mind, his country had supported proposals for the establishment of a

universal space organization within the United Nations system and had always advocated measures to prevent an arms race in outer space, for example, at the Conference on Disarmament.

24. Although the Legal Sub-Committee had elaborated significant international instruments in the past, in recent years, it had made only slow progress in formulating new legal principles because the interests of States conflicted on some points and also because codification was a complex task that required time and a broad consensus. It should, however, be possible to complete draft principles relevant to the use of nuclear power sources in outer space in the foreseeable future.

25. At preceding sessions, his delegation had submitted specific proposals on that difficult topic, in which a number of technical parameters and principles of international law came into play. Priority should be given to ensuring maximum safety in the operation of nuclear power sources in outer space; establishing very clear duties of notification in the case of launches of space objects with nuclear power sources on board and in the event of incidents; setting out the principle of State responsibility and establishing the rules of liability for damage and for the cost of recovery and clean-up operations; and ensuring that the principles to be elaborated were compatible with the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, adopted by the International Atomic Energy Agency in 1986.

26. In the belief that the revised draft principles submitted by Canada in 1989 were a good basis for solving the few remaining outstanding issues, his delegation would join in efforts to complete the drafting of that text.

27. His country's position on the question of the definition and delimitation of outer space was well known; it was high time to restart the negotiations on the question that had been deadlocked for so many years.

28. His delegation's position on the rational and equitable use of the geostationary orbit had been set out in the working paper it had submitted in 1986 (A/AC.105/L.153) and in a number of detailed comments thereon.

29. Although many States shared that position, opinions differed on the need to elaborate a set of principles. The Legal Sub-Committee should attempt to achieve the broadest possible consensus among States in recognizing that the geostationary orbit was an integral part of outer space and must be used in an effective and equitable manner; further efforts would have to be made to promote various forms of co-operation in that field.

30. He looked forward with interest to the discussions on agenda item 5. As the topic was a broad one, specific objectives should be set and ways should be identified of expanding co-operation and setting it on legal foundations.

31. Mr. HE Qizhi (China) said that after years of discussions the Sub-Committee had made progress in elaborating draft legal principles relevant to the use of nuclear power sources in outer space. Out of 11 draft principles, agreement had been reached on five: "Applicability of international law": "Notification of re-entry"; "Consultations"; "Assistance to States; and "Settlement of disputes". There had been in-depth discussions

on the other principles, some of which were close to agreement. The achievements of the Sub-Committee thus far were the result of the untiring efforts and positive co-operation by all delegations to reach a scientifically-based agreement. His delegation attached great importance to the issue of the use of nuclear power sources in outer space, since any country might be affected in the event of an accident, and it therefore held that appropriate measures should be taken on a strictly scientific basis to formulate certain regulations on the use of such energy sources in outer space.

32. With regard to principle 2, "Notification of the presence on board a space object of a nuclear power source", his delegation noted that, according to principle 2 as stated in the working paper submitted by Canada (A/AC.105/C.2/L.154/Rev.5), the launching State must furnish to the Secretary-General, as soon as possible after launching, specific information as to the presence on board a space object of a nuclear power source and its generic classification. His delegation had also noted that some delegations were proposing that principle 2 should be considered in combination with principle 4, "Safety assessment", since safety assessments should be made public for the benefit of the international community as a whole because, otherwise, they would be useless. It took the view that the two issues were interconnected and hoped that the Sub-Committee would consider them carefully at its current session in order to find a more concerted and appropriate solution in respect of safety.

33. His country regarded the question of guidelines and criteria for the safe use of nuclear power sources as a key issue in the text of the draft principles. The above-mentioned working paper submitted by Canada was a good basis for further work. The aim of the Sub-Committee's work was to preserve the Earth's biosphere and outer space from any harmful radioactive pollution. Despite the progress made, particularly by the Working Group on the Use of Nuclear Power Sources in Outer Space of the Scientific and Technical Sub-Committee, there were some problems still pending and his delegation was ready to collaborate with other delegations in finding solutions.

34. The question of the definition of the term "launching State" was another important issue and the applicability of the draft principles would depend on it to a large extent. The definition gave rise to complicated problems: for example, according to the definition contained in the Registration Convention, "launching State" meant a State which launched or procured the launching of a space object or a State from whose territory or facility a space object was launched. However, if the launching State was not the manufacturing State of the satellite, it was technically impossible for such a launching State to make safety assessments of the satellite and furnish relevant information concerning a satellite with a nuclear power source on board. It was thus vitally necessary for the concept of "launching State" to be defined precisely.

35. His delegation had noted that the views of delegations were getting closer on the principles of State responsibility and compensation and that the remaining problems were of a drafting nature. It hoped that the necessary co-ordinated efforts and co-operation would enable both principles to be finalized at the current session.

36. The Legal Sub-Committee had been considering the issue of the definition and delimitation of outer space for many years, but views continued to differ. From a legal point of view, it was necessary to delimit the boundary

between airspace and outer space and, given the complexity of the political, safety and technological factors involved, his delegation hoped that the Sub-Committee would continue its consultations with a view to achieving an identity of views and reaching an agreement.

37. His delegation welcomed the increase in the number of delegations which had begun to participate in the substantive discussions on the geostationary orbit and reaffirmed that the legal régime for the geostationary orbit should be based on the principle of the equitable, efficient and economic use of the orbit, taking into consideration the interests of the developing countries, including the equatorial countries.

38. The Legal Sub-Committee had begun to consider the principle of common interest at its preceding session. The 1967 Outer Space Treaty made it clear that outer space formed part of the heritage of all mankind and that the exploration and use of outer space must therefore serve the interests of all countries. The task of the Legal Sub-Committee was to work out the details of that legal principle and the procedure for doing so had been laid down at its preceding session: as a first step, it should compile and consider provisions concerning the principle in existing treaties, in other international legal instruments and in national laws. China had provided the Secretary-General with information on its accession to the international conventions on outer space and on the bilateral agreements it had concluded on space co-operation. Its view was that, at the current session, the Sub-Committee might analyse and summarize some of the main elements so that delegations could begin substantive discussions in which his delegation would participate actively.

39. Mr. BOYER (France) expressed his delegation's satisfaction at having Mr. Mikulka as Chairman of the current session of the Legal Sub-Committee. There were two reasons for that satisfaction: firstly, that Mr. Mikulka was the representative of the Republic of Czechoslovakia, for which France had the greatest affection and esteem; and, secondly, because of the personal esteem in which he, Mr. Boyer, held the Chairman, having had the opportunity of working with him in the past.

40. Mr. CURBELO (Observer for Cuba) said that the United Nations had been concerned about the extension of the arms race to outer space since the General Assembly had adopted resolution 1472 (XIV) on international co-operation and the peaceful uses of outer space. Wasting considerable financial resources for such purposes was contrary to the current international climate and an obstacle to the development of co-operation among States with a view to increased participation by all - and, in particular, by developing countries - in the benefits of the exploration and utilization of outer space for peaceful purposes.

41. Cuba had closely followed the progress made at preceding sessions of the Legal Sub-Committee on agenda item 3 and considered that the elaboration of draft principles relevant to the use of nuclear power sources in outer space would be of considerable assistance in solving the problems involved in the use of such power sources. Apart from the fact that it was a developing country, Cuba had a geographical position which explained why it was particularly concerned about the consequences of uncontrolled re-entry by objects with nuclear power sources on board and by any accidents which might

occur during launching or in the initial stages of flight. His delegation therefore considered that the safety criteria for those specific cases should be included in the guidelines on draft principle 3.

42. The lack of a definition and delimitation of outer space was preventing the scope of outer space agreements from being determined. In addition, the establishment of a boundary between airspace and outer space would help to strengthen the sovereignty of States over their airspace and reduce the risk of disputes.

43. With regard to the second part of agenda item 4, his delegation reaffirmed the need to establish a legal régime for the geostationary orbit which would be in conformity with the space law in force and, since the geostationary orbit was a limited natural resource, would guarantee its rational and equitable use by all States, taking into particular account the needs of developing countries so that they could exercise their rights once they had the necessary material means to do so.

44. As a developing country, Cuba attached particular importance to agenda item 5, which had to be analysed from a legal point of view in order to develop a legal framework guaranteeing access by all countries, and by developing countries in particular, to the benefits of the exploration and utilization of outer space and to provide protection for the right of countries with little or no space industry capability to play a full part in exploring and using outer space when suitable material conditions obtained. In his delegation's view, developing the principle of international co-operation between States and then making it systematic would in large measure enable that objective to be achieved.

45. His delegation unreservedly supported the statements by other delegations in the Sub-Committee and the Committee that the in-depth discussions should bear on the agreements, declarations, resolutions and other legal instruments covering various aspects of international co-operation particularly General Assembly resolutions 3201 (S-VI), 3202 (S-VI), 3281 (XXIX) and 3362 (S-VII).

46. Despite the size of the task, his delegation was convinced that, if all States, particularly those with strong space capabilities, showed the necessary political will, it would be possible to reach agreements on a general legal framework for international co-operation in the exploration and peaceful use of outer space. International co-operation must aim to promote understanding between nations and to safeguard peace and it should be a peaceful means of bringing peoples closer together. Cuba was of the view that international co-operation in the peaceful uses of outer space was in line with the objectives set out in Chapter IX, Article 55, of the United Nations Charter. Activities which used advanced technologies, including in the space field, but did not help to establish or strengthen friendly relations among peoples therefore ran counter to mutual understanding, violated the sovereignty of States and were an unacceptable obstacle to international co-operation and a serious threat to peace in the regions where they were carried out. Using a great deal of technology and telecommunications equipment, the Government of the United States of America had, on 27 April 1989, improperly taken over a Cuban broadcast transmission channel then being used by a Cuban station and had begun to broadcast television

programmes exclusively to Cuba. That action was unacceptable because it violated Cuban sovereignty and because of the consequences it might have for peace and security in the region, particularly since it might be a precursor of activities on a larger scale.

47. Mr. RASHKOW (United States of America), speaking in exercise of the right of reply, said that his delegation categorically rejected the Cuban delegation's efforts to politicize the work of the Sub-Committee by raising issues which had nothing to do with the discussions. The broadcasts mentioned by the Cuban delegation had been transmitted fully in conformity with the provisions of the International Telecommunication Convention and the regulations of the competent international authorities and in no way violated the sovereignty of Cuba or of any other State. Moreover, the assertion that those broadcasts, which had consisted mainly of retransmissions of sporting and cultural events, threatened international peace and security, was patently absurd.

48. Mr. CURBELO (Cuba), speaking in exercise of the right of reply, said that his statement had not been about the programmes broadcast by a television channel, but had been intended to explain his Government's views on the agenda items under consideration. His delegation had indicated that the United States Government had used advanced technology, including space technology, for purposes which were not peaceful, with the aim of blocking the process going on in Cuba. It had also stressed that one of the basic elements of co-operation - which ought to promote understanding between States - was respect for their sovereignty. His intention had in no way been to politicize the discussions, but the fact was none the less that the United States Government should have refrained from broadcasts which violated the relevant international regulations. He deplored the fact that the United States delegation had said that the broadcasts were in conformity with the international law in force and invited it to acquaint itself with the recent decision adopted by the International Telecommunication Union (ITU) on the matter.

49. Mr. RASHKOW (United States of America), speaking in exercise of the right of reply, said that his delegation was well aware of all the decisions of ITU and its various bodies and valued them. His country had, in the case in point, fully complied with those decisions.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (agenda item 3)

50. Mr. VERESHCHETIN (Union of Soviet Socialist Republics), noting with satisfaction that, at the Sub-Committee's preceding session, work on the legal principles relevant to the use of nuclear power sources (NPS) in outer space had been intensive, said that his delegation expected the current session to achieve results, inasmuch as a number of issues had already been thoroughly discussed at the recent session of the Scientific and Technical Sub-Committee. He noted in particular that delegations had approached the search for solutions to the problem of NPS safety in a balanced and constructive manner marked by a desire to formulate recommendations on the many issues under discussion which would be acceptable to all. Advocating as it did the establishment of a régime guaranteeing the safe use of nuclear power sources and aware of all the responsibility it bore as a result of its

experience in operating nuclear power sources in outer space, his country intended to do everything it could to enable the Legal Sub-Committee to carry out the task entrusted to it under agenda item 3 fully and as rapidly as possible.

51. One of the most important elements in the régime for the use of nuclear power sources in outer space was, in his delegation's opinion, openness with regard to information. It therefore had no objection to the regular publication of safety assessments, as provided for in draft principle 4. The Soviet side had already taken specific steps in that direction and had submitted NPS safety assessment information at the international conferences held in Albuquerque (United States of America) in 1989 and 1990 and to the symposium on nuclear power sources held in Cologne (Federal Republic of Germany) in November 1989. A conference on nuclear power in outer space, to be held in Obninsk (USSR) in May 1990, would also give Soviet and foreign scientists an opportunity to submit reports on the various aspects of the development of NPS and their use in outer space, as well as on reactor safety. The conference would be particularly concerned with the theoretical and experimental foundations of the effectiveness of NPS radiological protection systems. In addition, the issue of NPS safety was coming up more and more often in specialized Soviet publications.

52. Having raised the question of openness, his delegation reaffirmed its desire to contribute to a final agreement, at the current session, on the draft principle relating to safety assessments. It was also prepared to accept the proposal that, when the United Nations was notified of the registration data of a space object with a nuclear power source on board, in accordance with draft principle 2, information should be provided on the approximate quantity and type of nuclear fuel in the nuclear power source and on the basic operating principles of the NPS radiation protection system, in addition to information indicating the presence on board of a NPS and its generic classification.

53. His delegation was of the opinion that, under the procedures laid down in the Registration Convention, the launching State should also provide additional information when space objects which had used up their operating resources were transferred into parking orbit or when there was any major change in their operating orbit.

54. With regard to principle 3, his delegation, having studied the working paper submitted by Canada, the Federal Republic of Germany and France (A/AC.105/C.2/L.177) and taking into consideration the discussions which had taken place on it during informal consultations, started from the principle that the provisions of paragraphs 1.3 and 2.6 of the working paper covered the possibility of using a reactor dispersion system if the disposal system failed.

55. As already stated, his delegation was also prepared to include in the draft principles provisions on the liability of the launching State for expenses incurred during location, retrieval and clean-up operations, including expenses incurred to obtain assistance from third parties, in so far as the expenditures were justified.

56. To settle any possible dispute in that regard, it considered that it would be possible to go further than the provisions of the present paragraph 4 of principle 9: as provided for by the Convention on International Liability

for Damage Caused by Space Objects, it would be prepared to accept, with the Sub-Committee's agreement, that the decisions of the commission responsible for considering requests for compensation would be binding. It would also not object to the inclusion of a provision relating to the possibility of settling disputes by appealing to the International Court of Justice.

57. Mr. REISKIND (Canada) said that the subject of nuclear power sources had been under discussion in the Legal Sub-Committee, the Scientific and Technical Sub-Committee and the Committee on the Peaceful Uses of Outer Space itself for many years. Although the tenor of the Sub-Committee's work had changed from confrontation to dialogue and openness, the fact remained that there was much still to be done. Useful draft principles had been produced and the time had come to decide whether the Sub-Committee should continue an essentially academic exercise on developments in NPS technology, however interesting and educational it might be, or whether it should give the final stamp of approval to what it had elaborated.

58. His delegation favoured concluding the Sub-Committee's work. The principles were essentially there; all that was needed was to add the finishing touches. NPS technology would continue to develop, but it was important to have in place, as soon as possible, agreed principles setting out parameters for the safer use of NPS by all States. Since safety was, after all, the desired goal, his delegation was prepared to be flexible on specific wording in order to achieve that goal.

59. At its spring session in New York, the Scientific and Technical Sub-Committee had made good progress. The discussions had focused primarily on principle 3 and had led to a consensus text, which was contained in the report of the Scientific and Technical Sub-Committee (A/AC.105/456). Canada, the Federal Republic of Germany and France had taken that text and revised it slightly from a legal perspective with a view to moving the Legal Sub-Committee towards agreement on it. That text should be available that day in all working languages (A/AC.105/C.2/L.177). A useful initial informal exchange of views on that document had taken place the previous day. Nevertheless, some disquieting views had been expressed, causing the Canadian delegation to doubt some delegations' commitment to the principle of safety for NPS. For example, there had been some opposition to stating expressly that NPS should not be used when reasonable alternatives were available, arguing that such wording was too negative. Another example had been the efforts to water down the injunction that States launching space objects with NPS on board must make every endeavour to protect individuals, populations and the biosphere against radiological hazards. His delegation would have thought that States using NPS would have automatically wished to make every endeavour to ensure protection.

60. In the light of experience, Canada took as its premise that the use of NPS was an ultra-hazardous activity. An accident involving an NPS was not the same as one involving solar panels. Canadian experts considered that it might be necessary to evacuate a city if an NPS were to crash or disperse there. United Nations principles relevant to the use of NPS should reflect that inherent risk. The principles should naturally be practical about the necessary and careful use of NPS, but Canada urged all delegations not to minimize the very real risks involved.

61. Mr. VERESHCHETIN (Union of Soviet Socialist Republics) thanked the delegations of Canada, the Federal Republic of Germany and France for their working paper on principle 3 (A/AC.105/C.2/L.177) and said that his delegation had no difficulty with that text. He took the view that the document reflected the consensus which had emerged in the Scientific and Technical Sub-Committee and set out its ideas well in legal form. His delegation was therefore prepared to accept it practically unchanged.

62. Mr. EIKENBERG (Federal Republic of Germany), endorsing the comments made by the representative of Canada, said that the Scientific and Technical Sub-Committee had in fact made a breakthrough at its preceding session and that everything should be done to maintain the consensus achieved on principle 3. He appealed to all delegations to reach a consensus on that principle in the Legal Sub-Committee at its current session.

63. Mr. HODGKINS (United States of America) said that the comments which had been made on some of the trends in the discussions on NPS probably related to comments made during informal consultations. It seemed to him, however, that within the United Nations system, informal consultations were intended to encourage free and open exchanges of ideas. If some delegations thought that they were unproductive, he suggested that they should be concluded, in respect of agenda item 3 at least, and that the work should be continued in plenary meetings and working groups. He was nevertheless very concerned about keeping the informal consultation process intact.

64. Mr. LEVY (France) said that he agreed with previous speakers about the possibility of reaching an agreement on principle 3 at the current session. The point was to put the consensus reached in the Scientific and Technical Sub-Committee into legal form so that the Legal Sub-Committee might possibly complete its work during the current year.

65. His delegation emphasized that the Sub-Committee also appeared to be close to a consensus on principle 4, on safety assessment, and would spare no effort to ensure that a compromise could be reached on that principle, which it regarded as being as important as principle 3. In fact, where principle 3 set out the rules which must be followed by States using NPS in outer space, principle 4 provided a means of checking whether those rules were actually being obeyed.

The meeting rose at 12.35 p.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 531st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 April 1990, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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General exchange of views (continued)

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The meeting was called to order at 10.40 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. RASCHKOW (United States of America) said that his country had a special interest in the question of the use of nuclear power sources (NPS) in outer space, since it was a user of NPS systems and its large population and vast land mass made it vulnerable in the event of unplanned re-entries of nuclear power sources. Safety was therefore given the highest priority in the United States space programme, as demonstrated by the enormous amount of research and development being conducted in that area. Many countries represented in the Sub-Committee had drawn extensively from that research in their own work.

2. His delegation had from the outset fully supported the Sub-Committee's efforts to arrive at a consensus on principles which were balanced, gave a high priority to safety and were realistic from a technical point of view. He reserved the right to make more specific comments on the consideration of the nuclear power sources principles in the Working Group on agenda item 3.

3. The title of agenda item 5, which was a carefully balanced formulation, should serve as a basis for a discussion over the next few years on the application of article I of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967 Outer Space Treaty). It was clear that that new item provided the Sub-Committee with an opportunity for an exchange of views on that important matter. However, it did not give it a mandate to negotiate a new international legal framework.

4. His delegation welcomed the understanding reached at the twenty-eighth session of the Sub-Committee on the proposal which had been made by the Austrian delegation concerning the timetable and programme of work for agenda item 5 and was reproduced in full in paragraph 53 of the report on the twenty-eighth session (A/AC.105/430). It trusted that other delegations shared its view and that serious work could begin in accordance with that understanding, on the substantive issues to be dealt with under that item.

5. With regard to agenda item 4, his delegation considered that the absence of a definition or delimitation of outer space had not prevented dramatic progress from being made in the exploration and use of outer space in the past 30 years and was not likely to do so in future. On the contrary, premature attempts to establish such a definition or delimitation could impede further progress in the peaceful exploration and use of outer space. His delegation therefore once again urged the Committee to remove that item from the agenda of the Legal Sub-Committee or at least to put it aside so that the Sub-Committee could spend more time on more concrete problems whose consideration was likely to produce results.

6. His country's position on the geostationary satellite orbit was that it was an integral part of outer space. It was not therefore subject to appropriation by claim of sovereignty, by means of use or occupation or by any other means and all States enjoyed equitable access to its utilization. His delegation also considered that the International Telecommunication Union (ITU) was responsible for the rational, efficient and equitable use of the orbit on

the basis of treaty arrangements among member States. In any event, the work of the Legal Sub-Committee should not involve the establishment of a new legal régime, which would not only be unnecessary to the settlement of the matter, but would also go beyond its mandate.

7. His delegation and other delegations had in the past expressed grave concern about the underutilization of conference resources by the Sub-Committee and had made specific proposals on how it could improve its methods of work, most recently at the twenty-eighth session, in the form of a plan which was to be found in document A/AC.105/C.2/L.174. His delegation had, however, been disappointed by the lack of interest on the part of some delegations in that question.

8. The decision taken at the forty-fourth session of the General Assembly nevertheless gave some reason for optimism with regard to future sessions of the Legal Sub-Committee. His delegation had taken note of the the exchange of correspondence between the Chairman of the Special Political Committee, the Chairman of the Legal Sub-Committee and the Under-Secretary-General for Conference Services and Special Assignments. It expressed congratulations to the secretariat for the schedule of work it had proposed, as well as to the former Chairman of the Sub-Committee, Mr. Suja, for their excellent ideas for streamlining the organization of the Sub-Committee's work. It requested that Mr. Suja's letter dated 31 January 1990 and the schedule of work contained in document A/AC.105/C.2/L.176 should be annexed to the report on the current session. That request should not pose a problem, since those documents related directly to the Sub-Committee's work and had been prepared in response to the wishes of the Special Political Committee. In his delegation's view the number of meetings allocated for the present session and the schedule of work should be used for organizing the following year's session.

9. Lastly, his delegation reiterated its willingness to work with all delegations in making the Committee on the Peaceful Uses of Outer Space and its two Sub-Committees function as effectively and efficiently as possible. The Committee on the Peaceful Uses of Outer Space, as the only standing Sub-Committee of the General Assembly with an exclusive mandate for promoting international co-operation in the use and exploration of outer space, occupied a unique position within the United Nations. At the same time, it was clear that its mandate did not include questions related to disarmament, which fell within the competence of other United Nations bodies. In that connection, his delegation had been surprised and disappointed to see in the past two days that there were still some delegations which were determined to distract the Committee from its mandate and to politicize its work by raising issues such as disarmament. The only conclusion was that, after so many years, those delegations had not become reconciled to the idea that the mandate of the Committee and its two Sub-Committees was to promote international co-operation in outer space exploration on the basis of consensus and not to engage in endless polemics.

10. The CHAIRMAN said that he had taken note of the request by the United States delegation that the documents it had mentioned should be annexed to the Sub-Committee's report.

11. Mr. VERESHCHETIN (Union of Soviet Socialist Republics) said that the complete change of of emphasis in international relations and the developments taking place in the world political situation meant that the prospects for the use of outer space and for international co-operation in that area could be considered in a new light. There was an obvious need to create political and legal conditions guaranteeing an international order in which outer space would not be regarded as a potential area of military confrontation, but where the concept of its utilization for the benefit and in the interests of all States would be more fully reflected in the relevant agreements, thus establishing a more elaborate institutional system of international relations which would be broadly based and open to all countries with scientific, technical, industrial and commercial ties. The utilization of outer space was taking on more and more of a global and transnational dimension, as shown by the fact that the Sub-Committee's work would focus, inter alia, on the legal aspects of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States. His country was making every possible effort to bring its foreign policies into line with the interests of the world community and also intended to follow that approach throughout the current session.

12. His delegation noted with satisfaction that the question of draft principles relevant to the use of nuclear power sources in outer space had continued to be discussed in depth at the preceding session. In the general context of the constructive process of the elaboration of those principles and the considerable progress made on a number of issues, however, the unexpected difficulties which had arisen during the current session could not be disregarded. The Sub-Committee was nevertheless approaching the finishing line. The progress made at the last session of the Scientific and Technical Sub-Committee had paved the way for the achievement of fruitful results. All delegations therefore had to be prepared to take decisions on the provisions of the draft principles on which there had already been substantial agreement.

13. As matters now stood, the delimitation of outer space and airspace was still an important issue. The use of modern aerospace technology and the development of advanced technology in that field showed just how relevant that international legal problem was. At the Sub-Committee's preceding session, his delegation had proposed that the question of the legal aspects of the use of spacecraft should be examined under agenda item 4 and a number of delegations appeared to have been interested in its proposal. That question should, of course, be considered in conjunction with the question of the delimitation of outer space, without prejudging it. It was therefore to be hoped that some progress could be made at the current session in the consideration of those problems.

14. With regard to agenda item 5, his delegation noted that, at the Sub-Committee's twenty-eighth session, there had been differences of opinion on the type of questions which might be considered and on their legal connotations. Some delegations would have preferred a general exchange of views on the implementation of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all countries, while others would have preferred to focus on specific issues. His delegation considered that the new agenda item would provide a useful opportunity to discuss questions concerning the development of international co-operation in space matters and to study the new regulatory

problems which arose in that regard. It welcomed the establishment of a working group on that item and considered that it should be made clear in the report of the Sub-Committee on the current session that that group should be able to consider any proposals and points of view put forward.

15. The work on that agenda item should start with an analysis of the provisions of international space law relevant to the exploration and utilization of outer space for the benefit and in the interests of all States in order to determine whether their systematization and progressive development were called for. At the Sub-Committee's preceding session, his delegation had said that the discussion should also cover all the legal aspects of international co-operation in the use of outer space. At a later stage, specific proposals might be made to promote increased co-operation of that kind, taking duly into account the need for the fuller participation in co-operative action by all the States concerned, particularly the developing countries. In that connection, his delegation attached particular importance to the steady development of bilateral and multilateral co-operation in the peaceful exploration and use of outer space.

16. The information communicated by his Government to the United Nations Secretariat on the agreements concluded between the Soviet Union and other countries (A/AC.105/C.2/16/Add.5) gave some idea of the nature and extent of its international co-operation in space sciences and their practical applications. Since the twenty-eighth session of the Legal Sub-Committee, his country had signed new co-operation agreements with France, Canada and Italy on the peaceful uses of outer space and it expected to conclude new agreements with the United States of America on the expansion of bilateral co-operation in space research. Agreements with other countries and international organizations were also being prepared and the Soviet Union would shortly be signing an agreement with the European Space Agency.

17. His country attached particular importance to the expansion of co-operation with the developing countries in the peaceful use of outer space. In that connection, he referred to the agreement between the Soviet Union and Brazil on co-operation in the peaceful exploration and use of outer space and India's planned participation in the programme of work on board the Mir orbital station.

18. Still on the subject of international co-operation in space matters, he drew particular attention to the joint experiments carried out, on a mutually advantageous basis, on board Soviet manned spacecraft and orbital stations. He also drew the Sub-Committee's attention to the fact that the operation of Soviet space stations for many years, the future work of the "Freedom" orbital station, which was the result of broad international co-operation, and other plans to establish manned space stations raised the question of the international regulation of manned spacecraft flights and the elaboration of the relevant legal provisions. In his delegation's view, the time was ripe for the Sub-Committee to study that issue in greater detail.

19. In conclusion, his delegation was confident that the affirmation of the shared interests of States with regard to the exploration and utilization of outer space would strengthen the Sub-Committee's role in the preparation of legal rules governing activities in that area and establish its reputation as creator of contemporary space law.

20. Mr. OWOSENI (Nigeria) said that the peaceful exploration and use of outer space in the past 30 years had resulted in tremendous progress for mankind and that, in many countries, the application of space technology had transformed the standard of living of the population. Those new scientific and technological achievements and, more generally, manned activities in outer space had led to the view that the consistent development of the applicable international law, including the relevant rules governing the exploration and peaceful uses of outer space, was crucial. Since the terrestrial environment and outer space were closely linked, moreover, outer space activities inevitably affected the terrestrial environment. The various legal and political issues before the Legal Sub-Committee were therefore fundamentally important to man's survival on Earth.

21. Unlike some delegations which argued that the disarmament issue did not come within the mandate of the Committee on the Peaceful Uses of Outer Space, his delegation considered that compliance with the 1967 Outer Space Treaty, which stipulated that outer space should be used solely for peaceful purposes, meant that outer space had to be safeguarded from the arms race and from any militarization whatsoever, since they would pose a grave danger to mankind, as most States would agree. Nigeria was seriously concerned that such an ominous development was possible, judging by the military designs and activities of some countries which could nullify the efforts made by the Committee on the Peaceful Uses of Outer Space over the years.

22. The adoption by the Scientific and Technical Sub-Committee of the report of its Working Group on the Use of Nuclear Power Sources, which contained recommendations on the technical and scientific criteria applicable to the safe use of nuclear power sources for space objects, should greatly facilitate the elaboration by the Legal Sub-Committee of draft principles relevant to the use of nuclear power sources in outer space under agenda item 3.

23. A particular area of interest to his country was the question of space debris. The growing number of space objects with nuclear power sources which were launched into space and then abandoned in certain orbits increased the chances of collision and there was now a very real prospect of large-scale radioactive contamination of the Earth. It was therefore extremely important to safeguard the interests of the developing countries which did not have either the necessary technology for monitoring accidental re-entry of a space object with NPS on board or the capability for clean-up operations. The least they could demand was the adoption of and compliance with the strictest possible regulations on the design, construction and use of NPS, the setting of the minimal level of radioactive contamination of non-launching States, the highest standards of safety of nuclear reactors and their payloads and appropriate and adequate compensation for all types of damage resulting from the accidental or uncontrolled re-entry and impact of space objects or their components.

24. Some of those demands were covered by the recommendations on NPS adopted by the Scientific and Technical Sub-Committee and relating to the restriction of the use of NPS to space missions unable reasonably to operate on non-nuclear energy sources, the need for a counteracting device on a malfunctioning NPS and the acceptance of nuclear-reactor operation only on interplanetary missions or in sufficiently high orbits. All those recommendations reflected collective awareness of the need for a genuine

solution to a serious global problem. They were, however, not enough. His delegation's apprehension would be alleviated only if the Legal Sub-Committee could make real progress in the elaboration of other principles, primarily principle 2 on notification of the presence of a nuclear power source, principle 4 on safety assessment, principle 8 on responsibility and principle 9 on compensation.

25. With regard to agenda item 4, his delegation was concerned that, after 30 years of activities in space, the question of the definition and delimitation of outer space had still not been settled, despite the spirited efforts made in recent years. Nigeria had proposed that the upper limit for airspace should be 90 kilometres above the Earth. Other countries had proposed an upper limit of 110 kilometres, which was equally acceptable. Because of its implications for the territorial integrity of States, the question of delimitation should remain on the Sub-Committee's agenda and it was to be hoped that some positive progress would be achieved on that issue at the current session.

26. When his country had acceded to the Outer Space Treaty in November 1967, it had done so with the firm belief that outer space and particularly the geostationary satellite orbit would continue to be the common heritage of all mankind and to be used rationally and equitably for the benefit of all and would not be subject to appropriation by any one State. That belief, which was shared by a broad section of the international community, had not changed. Since ITU's role was to deal with such scientific and technical aspects of outer space as frequency allocation, the Legal Sub-Committee was the most appropriate forum for political debate on the question of the geostationary satellite orbit and for resolving any legal questions arising from it. Furthermore, in planning the allocation of frequencies, ITU should take due account of the peculiar problems and interests of developing countries which did not have satellite systems.

27. His delegation welcomed the establishment of a working group on agenda item 3, but regretted the diversionary tactics employed by some delegations at the preceding session so that the Sub-Committee would set aside that item, which the Group of 77 considered very important to the developing countries. It was appropriate to recall that, in its resolution 43/56 of 6 December 1988, the General Assembly had requested the Legal Sub-Committee to set up that working group at its twenty-eighth session. It was therefore to be hoped that all delegations would henceforth submit constructive proposals on that item, whose central objective was to identify the measures to be taken to enable mankind as a whole to benefit from the advantages of space exploration and use, taking into particular account the needs of the developing countries.

28. Mr. RAO (India) recalled that, since its establishment, the Committee on the Peaceful Uses of Outer Space had been actively engaged in promoting a peaceful outer space order despite obstacles such as the escalation of the arms race and the growing militarization of outer space. Although the present international climate was favourable to peace efforts, intensive research was being carried out on space weapons sytems. The Legal Sub-Committee therefore had an important role to play in putting an end to the militarization of outer space and ensuring that it should be used only for peaceful purposes.

29. The 1967 Outer Space Treaty, which has been formulated by the Legal Sub-Committee, provided that outer space was the province of all mankind, could not be appropriated by any single State or group of States and should be used in the interests of all and exclusively for peaceful purposes. Those fundamental rules of outer space law applied to any kind of activity undertaken by States or entities in relation to outer space. The core of a legal régime contained in the Treaty should also provide a framework for any further negotiations on space issues in the Committee on the Peaceful Uses of Outer Space, in any other United Nations body or outside the United Nations. On that basis, the Legal Sub-Committee had formulated several important legal instruments such as the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, the Convention on International Liability for Damage Caused by Space Objects, the Convention on Registration of Objects Launched into Outer Space and the Principles Relating to Remote Sensing of the Earth from Space.

30. The substantive issues on the agenda of the twenty-ninth session were of considerable importance to the future of mankind and should therefore be settled amicably. Specifically, the work on the elaboration of draft principles relevant to the use of nuclear power sources was at a fairly advanced stage and a consensus had already been reached on over half the draft principles. The conclusions of the last session of the Scientific and Technical Sub-Committee should encourage the Working Group on that item to focus more clearly at the current session on the question of guidelines and criteria for the safe use of nuclear power sources.

31. It was to be hoped that there would be a meaningful exchange of views on the question of the definition and delimitation of outer space and that delegations would manage to overcome their differences. The working non-paper which had been submitted at the preceding session and which contained the main views of the members of the Legal Sub-Committee on that question was a useful basis for further discussion.

32. As far as agenda item 5 was concerned, the Legal Sub-Committee should be able, in the light of the compromise solution adopted at its twenty-eighth session, to establish the Working Group on that item at the current session so that it might meet in 1991.

33. In conclusion, he reaffirmed the need to ensure the safety of populations and space missions and to establish appropriate guidelines for the use of NPS in outer space. It was also necessary to define the limits of outer space and airspace, which had to be subject to separate legal régimes, and to define the legal régime for the geostationary satellite orbit in order to ensure equitable access by all States as well as its rational use on the basis of the existing legal framework and taking account of the needs of the developing and equatorial countries. International measures should also be explored so that the benefits of outer space use could be extended to all countries, including the developing countries.

34. Mr. BOJILOV (Bulgaria) said that, of the three substantive agenda items, special attention should be paid to the elaboration of draft principles relevant to the use of nuclear power sources in outer space, on which significant progress had already been made. The Scientific and Technical Sub-Committee had also adopted a number of recommendations on the safe use of

nuclear power sources in outer space. His delegation therefore welcomed the working paper which had been submitted by the delegations of Canada, the Federal Republic of Germany and France and which faithfully reflected the consensus reached by the Scientific and Technical Sub-Committee. There should thus be no obstacles to an agreement on draft principle 3.

35. As to the definition and delimitation of outer space, his delegation had no choice but to reiterate its earlier position. The legal régime applicable to airspace was clear, well developed and based on the principles of sovereignty, territorial integrity and national security. The legal régime of outer space, on the other hand, was based on the principle of freedom of exploration and use. The definition and delimitation of outer space was therefore a practical and legal necessity.

36. The problem of the nature and use of the geostationary satellite orbit had been discussed in depth. Without wishing to underestimate the differences of opinion among delegations, his own delegation believed that the Sub-Committee should take account of the points on which opinions converged. Many delegations agreed that the geostationary satellite orbit was an integral part of outer space; that it was not subject to national appropriation; that it was a limited natural resource which must be used in a rational way; and that all States should have equitable access to and use of it. If those views could form the basis of an agreement, the prospects for further work would be promising.

37. His delegation attached great importance to the consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries. It therefore welcomed the General Assembly's endorsement of the recommendations of the Legal Sub-Committee on the method of work to be used in considering those questions and welcomed the establishment of the working group which would be convened in 1991. As already pointed out by other delegations, the purpose of that item was above all to lay the international legal foundations for fruitful international co-operation in outer space.

38. Mr. ANDRADE (Brazil) said that, because of its large territory, his country was particularly vulnerable to the threats to the natural and human environment posed by any uncontrolled re-entry into the atmosphere of a space object with a nuclear power source on board. It had therefore welcomed the recent consensus achieved by the Scientific and Technical Sub-Committee on the establishment of guidelines and criteria for safe use of nuclear power sources in space. It supported the working paper submitted by Canada, the Federal Republic of Germany and France on principle 3 and hoped that a spirit of compromise would prevail in the debates on that issue.

39. Brazil reaffirmed its position, as stated in document WG/NPS/(1987)/WP.8 submitted jointly by Chile, Egypt, Indonesia, Mexico, the Netherlands, Uruguay and Brazil on 23 March 1987, that the set of principles on nuclear power sources under consideration should include a clear-cut provision on notification prior to the launching of objects with a nuclear power source on board. Prior notification was not only an important factor in confidence-building among States, but also enabled countries located near or

in the region of the launching site to anticipate the measures considered necessary to avoid or minimize any damage which might occur as a result of an accident shortly after launching. For the same reasons, his delegation believed that, under principle 4, launching States should make a safety assessment available to all interested States prior to launching and that it should comply with the recommendations and guidelines defined by principle 3. His delegation also endorsed the statement by the Chinese delegation on the need to define the term "launching State" and considered that responsibility for safety assessments must be borne by States which produced, assembled, launched or operated space objects with nuclear power sources on board, and not only by States from whose territory those objects were launched, as some delegations had suggested.

40. Brazil shared the view of many delegations that there was a need for a proper definition of the limits between airspace and outer space, since that question affected the applicability of existing international law.

41. His delegation considered that a specific legal régime should be elaborated for the use of the geostationary satellite orbit. In that connection, it should be borne in mind that that orbit was a natural and limited resource and that it was also part of outer space. The role and functioning of ITU should also be taken into consideration.

42. Lastly, his delegation reaffirmed its understanding that work on agenda item 5 should focus specifically on identifying the areas of particular interest to all countries, especially the developing countries. In that context, Brazil was submitting a document on its national legislation related to the application of the principle contained in article I of the 1967 Outer Space Treaty and its bilateral agreements in the field of space co-operation.

ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (agenda item 3) (continued) (A/44/20; A/AC.105/456; A/AC.105/C.2/L.177)

43. Mr. NOREEN (Sweden) said that the use of nuclear power sources in outer space had been under consideration in the Committee on the Peaceful Uses of Outer Space and its two Sub-Committees for over 10 years. That was no doubt a long time and some would even say too long. However, the past few years had been marked by steady progress.

44. In 1986, the Legal Sub-Committee had agreed on two principles, one on the notification of re-entry of a malfunctioning space object carrying nuclear power sources, and the other on assistance to States. In 1988, it had reached a preliminary agreement on a principle relating to the applicability of international law and, in 1989, it had agreed on two new principles, one on consultations and the other on the settlement of disputes, thereby bringing the total number of agreed principles to five. Important as those results were, however, they did not address the central issues related to the use of NPS in outer space.

45. So far, no agreement had been reached on the important draft principles 2 (Notification), 3 (Guidelines and criteria for safe use) and 4 (Safety assessment). It was, of course, the contents of those principles that were the focus of the Legal Sub-Committee's work. However, the recent agreement in

the Scientific and Technical Sub-Committee on technical guidelines and recommendations for the safe use of nuclear power sources in outer space was definitely a major step forward. That agreement on radiation protection and recommendations for use of nuclear reactors and isotope generators had been reached after long and arduous negotiations in the Working Group on NPS. It was extremely satisfactory that the Scientific and Technical Sub-Committee had finally established a common technical basis for the elaboration of draft principle 3.

46. The recommendations agreed by the Sub-Committee had been incorporated in a working paper submitted to the Legal Sub-Committee by Canada, the Federal Republic of Germany and France (A/AC.105/C.2/L.177). His delegation greatly appreciated the efforts of those three countries in putting the Scientific and Technical Sub-Committee's agreement into a legal framework and it supported the general contents of that document, which closely reflected the compromise reached in New York. It was now up to the current session of the legal Sub-Committee to give legal meaning to the technical recommendations which had already been agreed on, and it was essential that that should be done without in any way changing the substance of the earlier agreement. Sweden was convinced that the Legal Sub-Committee was in a position to agree on draft principle 3 at the current session, provided that all delegations had the political will to do so. There were also good prospects for an early agreement on the question of notification of the presence on board a space object of a nuclear power source.

47. His country had supported the idea of making safety assessments publicly available and of carrying out such assessments prior to each launch. That would in practice be tantamount to the notification which Sweden and many other countries had consistently called for and would therefore appear to make draft principle 2 redundant.

48. One of the two countries which used NPS in outer space had accepted the principle of publicly available safety assessments prior to each launch and the other had accepted the principle of notification. It was therefore to be hoped that the idea contained in draft principle 4 of the fifth revision of the Canadian working paper (A/AC.105/C.2/154/Rev.5), which appeared in the 1989 report of the Legal Sub-Committee, would be acceptable to all delegations. If an agreement could be reached on principles 2, 3 and 4, the Sub-Committee would be close to a final agreement on all the draft principles relevant to the use of nuclear power sources in outer space. That opportunity must not be missed.

49. Mrs. VENTURINI (Italy) said that the consensus achieved in the Scientific and Technical Sub-Committee on the guidelines and criteria for the safe use of nuclear power sources in outer space gave the Legal Sub-Committee a unique opportunity to adopt the final text of principle 3. The task of the Legal Sub-Committee was to express in clear legal terms every substantial point on which agreement had been reached and, in so doing, the greatest care should be taken to safeguard the real meaning of the text as a whole.

50. Her delegation greatly appreciated the efforts made by Canada, the Federal Republic of Germany and France in submitting a new working paper incorporating the consensus text agreed on by the Scientific and Technical Sub-Committee. A better result would have been difficult to obtain, although

some minor amendments might still be necessary. However, the present wording of principle 3 seemed to be perfectly acceptable. Her delegation considered that the Legal Sub-Committee was very close to a consensus on that sensitive and crucial matter.

51. Her delegation would also like the Legal Sub-Committee to devote some of its time at the current session to discussing other principles. Referring particularly to principles 2 and 4 on notification and safety assessment, it had already emphasized that the term "launching State" might be defined in different ways for the purposes of different principles. Principle 4 seemed to be one of those principles in which a careful definition was particularly necessary. A discussion on that point could be most useful and her delegation was prepared, in a spirit of co-operation, to examine the proposals which had already been and would be made by other delegations.

52. As to principles 8 and 9 on responsibility and compensation, her delegation had already stressed at previous sessions that the régime of international responsibility established in the 1967 Outer Space Treaty and in the 1972 Convention on International Liability for Damage Caused by Space Objects should be strengthened. It had welcomed the clarifications which had been given on the amount of compensation and costs recoverable by the injured party. It believed that further discussion on those two principles were likely to lead to their adoption in a reasonable time and was ready to contribute to the achievement of that goal.

The meeting rose at 12.15 p.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 532nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 April 1990, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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General exchange of views (continued)

The elaboration of draft principles relevant to the use of nuclear power sources in outer space (continued)

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The meeting was called to order at 10.45 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. ZAWELS (Argentina) said that Argentina's position had always been that there was a need progressively to develop an international legal order to regulate space activities in a suitable manner, taking into consideration the interests of all countries and, in particular, the needs of the developing countries. Such legal order must promote international co-operation, the development of research and the maintenance of the exclusively peaceful nature of the exploration and use of outer space.

2. His delegation continued to attach prime importance to the formulation of principles ensuring the safe use of nuclear power sources in outer space and formally establishing the full responsibility of States and international organizations which used that type of power source.

3. The question of the definition and delimitation of outer space had to be kept on the agenda of the Sub-Committee so that it could discharge one of its basic tasks, namely, the progressive development of space law, whose scope obviously had to be clearly defined. It was therefore essential that a definition of the boundary of outer space should be formulated as soon as possible within a multilateral framework and by agreement. As to the characteristics and utilization of the geostationary orbit, even though it was an integral part of outer space, it was nevertheless a limited resource which must be used in an equitable manner, with due allowance being made for the needs and interests of the developing countries.

4. In that context, his delegation welcomed the decision, which the General Assembly had endorsed in paragraph 5 of resolution 44/46, to establish a working group on the legal aspects of the principle that the exploration and use of outer space must be carried out for the benefit and in the interests of all countries, taking into particular account the needs of developing countries.

5. In more general terms, his delegation attached great importance to the effectiveness of the Sub-Committee's work and considered that the yardstick for measuring that effectiveness should be a legal and not merely a statistical one. The amount of time allocated to the Sub-Committee, as well as its working methods, must reflect the fact that the legal questions it was considering were basic ones.

6. His delegation supported Mexico's request that the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space should make a statement to the Sub-Committee. Far from prejudicing the terms of reference of either the Ad Hoc Committee or the Sub-Committee, such a procedure would make it possible to have a complementary viewpoint on the outer space issue and to benefit from the fact that the Sub-Committee's current session was being held at the same place and time as the session of the Ad Hoc Committee.

7. Mr. HATIBALI (Indonesia) said that his delegation had always had great expectations for the role of the Legal Sub-Committee in initiating and preparing a set of legal principles for regulating the increasing activities of States in outer space. Such expectations were not without justification.

The Sub-Committee had produced excellent results in the past by developing a number of legal instruments which were currently in force, including the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty), which many had called the Magna Carta of space law. Those results could be attributed not only to the great expertise of the members of the Sub-Committee, but also and most particularly to the spirit of co-operation, mutual comprehension and readiness to compromise which had been characteristic of the Sub-Committee's work thus far. Indonesia believed that that spirit was still in existence, despite certain criticisms levelled against the Sub-Committee in recent years to the effect that it was working too slowly or was even unproductive. Nevertheless, even if the Sub-Committee's work had been slow, its slowness should be attributed to the increasing complexity of its task of establishing legal principles for the issues on its agenda.

8. For example, a decade or so previously, when dealing with the establishment of a legal instrument to govern certain areas of space activities, the inclusion of the principle of equality had satisfied all parties, developed and developing countries alike. However, to refer to that principle was now no longer sufficient, particularly for the developing countries. The principle should therefore be reformulated and redefined in order to reflect present and future conditions and in order to develop it, taking into account current challenges and, in particular, the technological and economic gaps between States. Neglecting those realities would mean that any reference to the principle of equality would establish only de jure equality, which might in fact create de facto inequality.

9. Similar problems also affected the Sub-Committee's current work on all the items on its agenda. With regard to the elaboration of draft principles relevant to the use of nuclear power sources in outer space, his delegation fully shared the opinion that the use of such power sources in outer space should be limited or even avoided in so far as other solutions were available. Indonesia, an archipelago consisting of several thousand islands, was particularly vulnerable to radiation caused by debris from nuclear power sources. His delegation appreciated the working paper which had been submitted by Canada, the Federal Republic of Germany and France on improving principle 3 on guidelines and criteria for safe use and which it would study with care. All parties concerned should also show readiness to discuss the proposal made in that working paper and other pending matters so that the Sub-Committee could achieve tangible results at the end of its current session.

10. As to agenda item 4, his delegation considered it necessary for a sui generis legal instrument to be established for the geostationary orbit, taking into particular account the needs of the developing countries and especially those of the equatorial States. It firmly believed that the United Nations system, particularly the Sub-Committee, the sole multilateral body dealing with those problems, could play a key role in attempting to formulate a legal instrument of that kind for the benefit of all mankind. It also considered that the issue of the definition and delimitation of outer space and that of the geostationary orbit were closely linked and that they neither could nor should be discussed separately.

11. In respect of the last agenda item, his delegation considered that the working paper submitted by the Group of 77 at the Sub-Committee's preceding session (A/AC.105/C.2/L.162) was still a valid basis for further

consideration. In that connection, it welcomed the fact that the Sub-Committee had set up a working group to consider the item constructively and wished it success in its work.

12. Mr. LEORO (Ecuador) said that his country, together with other developing countries, particularly the equatorial countries in the Committee on the Peaceful Uses of Outer Space, had traditionally emphasized the following issues: the use of outer space for exclusively peaceful purposes; the need to reduce the use of nuclear power sources on space objects to a minimum and to ensure the highest possible degree of safety; the correlation between the needs, interests and rights of the developing countries, particularly those of the equatorial countries, and the fact that the geosynchronous orbit was a limited natural resource; environmental protection; and the use of the financial, technical and scientific resources allocated to outer space for the benefit of all States and, in particular, for the development of the third world countries, as well as for humanitarian rescue and assistance activities.

13. His delegation considered that the following issues were equally important: consideration of the definition and delimitation of outer space, without which it would be impossible to determine the scope of airspace law and outer space law; establishment of a special statute for the rational and equitable utilization of the geostationary orbit, to be distinguished from the legal régime to be applied to what was inaccurately called "outer space"; the absolute obligation of States which had launched unused or non-operational space objects to dispose of them or recover them; the need to take into consideration the particular geographical situations of some countries, including the equatorial countries, and of all the developing countries in order to ensure that they had access to the geostationary orbit and to the use of the frequency spectrum.

14. The activities carried out in the geostationary orbit by the small and exclusive group of developed countries, which had the enormous economic and technical capabilities required, were directly affecting the countries in the equatorial zone, in some cases seriously: remote sensing and remote broadcasting could affect their sovereignty, independence, identity and cultural heritage, even to the extent of inflicting harm. They were also being exposed to the dangers posed by military devices, military tests, the use of nuclear power sources in geostationary satellites, debris in the geostationary orbit and the deterioration of the aerospace environment.

15. For all those reasons and many others, the equatorial countries were chiefly concerned by the need to regulate the use of the geostationary orbit and it was essential that their rights should be taken into account, particularly in the elaboration of regulations for outer space. They had, moreover, submitted various proposals concerning the principles to regulate the orbit, for example, in document A/AC.105/C.2/L.147.

16. His delegation also thought that the "working non-paper" which was reproduced in annex II of document A/AC.105/430 and which had served as a starting point for constructive discussions in the Working Group on agenda item 4 must now be studied more carefully, since the concepts it embodied offered a way of dealing with the problems relating to the utilization of the geostationary orbit, which had not been thoroughly discussed at the preceding session. It was clear that, in the context of the ideas outlined in the "working non-paper" and in other texts establishing the principle of equal

access, the principle necessarily had to be defined - in a way which did not ultimately justify the situations which had in fact occurred so far - before any sui generis régime was established for the geostationary orbit.

17. In that connection, his delegation was of the opinion that the countries which had stated that they were opposed to appropriation of the geostationary orbit on the grounds that it was a limited natural resource were contradicting themselves in practice because they placed multifunctional devices in the orbit that might even be contrary to the letter and spirit of the Outer Space Treaty and occupied it either permanently or periodically, thereby obtaining a number of advantages, especially considerable revenue. The result was a form of de facto appropriation of that resource for their unilateral and exclusive benefit.

18. A comprehensive review of all the issues associated with the aerospace field should also be carried out with a view to the rational codification of the law which ought to govern it, which was still being developed and which was to be found scattered among various international legal instruments and the many draft principles. Such a review would necessarily focus on many aspects of airspace and outer space law. His delegation also thought that it would be interesting to consider the possibility of setting up international institutional machinery to deal with the application of outer space and aerospace law.

19. With regard to the establishment of the new Working Group on agenda item 5, his delegation hoped that the work of the Group would be an opportunity for many of the legitimate aspirations of the developing countries, the equatorial countries in particular, to be realized and stated that it was prepared to take part in the Working Group with a view to ensuring its success.

20. Mr. MATUS (Chile) said that his delegation attached great importance to the question of outer space, firstly, because of its present and future practical consequences and, secondly, because of the technological and legal impact that the use of outer space could have for all States. Chile was therefore one of the few States to have ratified what was known as the "corpus juris spatialis", or, in other words, all the treaties relevant to outer space.

21. With regard to the use of nuclear power sources (NPS) in outer space, his delegation had always affirmed the need for a legal text containing the principles which must govern such use. The current situation was particularly favourable in that regard. A consensus had been reached on 5 of the 11 principles proposed, although the 6 others were probably the most important. In view of the productive work carried out by the Scientific and Technical Sub-Committee, he hoped that agreement might be reached at the current session on draft principles 3 and 8, which the Legal Sub-Committee was now discussing. Since the Scientific and Technical Sub-Committee had already agreed on the scientific and technical criteria for those two draft principles, all that was required was for political will to be shown in order to find a consensus legal formulation. In that context, his delegation, like many other delegations, considered that the working paper submitted by Canada, the Federal Republic of Germany and France (A/AC.105/C.2/L.177) could be instrumental in reaching a suitable consensus.

22. He also agreed with the representatives of China and Brazil that the wording of principle 2 (Notification of the presence on board a space object of a nuclear power source) should be brought into line with that of principle 4 (Safety assessment), since post-launch notification might be too late if an accident occurred on launching or immediately after.

23. As to the definition and delimitation of outer space, his delegation had always advocated the adoption of a clear and precise definition. Since the discussions on that issue had not made headway recently, it hoped that progress would be made at the current session.

24. As the geostationary orbit was a limited natural resource, the principle that it should be accessible to all on an equal footing and should be shared out equitably and without discrimination must be recognized and applied. His delegation therefore considered that the interests of the developing couuntries would have to be duly taken into account in studying the issue and later when it was put into suitable legal form.

25. His delegation welcomed the establishment of the Working Group on agenda item 5, which would deal with the legal aspects of the benefits of the exploration and utilization of outer space, taking into particular account the needs of developing countries. It was convinced that the Working Group would approach its work in the light of the need to promote the application of the principle of equal access to the benefits of space activities and the utilization of outer space in the interests of all mankind and not only in the interests of a minority with the technical means to benefit from outer space.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (agenda item 3) (continued) (A/44/20, A/AC.105/430, A/AC.105/456 and A/AC.105/C.2/L.177)

26. Mr. RAO (India) said that the Sub-Committee's main objective in connection with agenda item 3 was to ensure that the use of nuclear power sources (NPS) in outer space should not pose or result in any danger to populations and the environment or to space objects themselves or their crew. The use of nuclear power sources therefore had to be subjected to adequate safety measures through the adoption of appropriate international guidelines and regulations. In the event of non-observance of international safety standards and damage to persons or property by space objects with NPS on board, legal responsibility and liability must attach to the States or entities using the NPS. In order to build confidence, States which launched space objects with NPS on board had to furnish all the necessary information about them and conduct safety assessments prior to launch in accordance with agreed safety standards. His delegation considered that any draft of guiding principles on the issue of the use of NPS systems must include those essential elements. The working paper submitted by Canada (A/AC.105/C.2/L.154/Rev.5, reproduced in A/AC.105/430, annex III) had always been supported by his delegation because it reflected those essential elements.

27. Because of the progress made at preceding sessions by the Legal Sub-Committee and by its Working Group, in particular, a consensus had been reached on a number of draft principles. Of those which were still outstanding, the most controversial and, in fact, the most fundamental were the principles concerning notification, criteria and guidelines for safe use and safety assessment.

28. In his delegation's view, the establishment of guidelines and criteria for the safe use of NPS in outer space was basically a matter for the Scientific and Technical Sub-Committee. The Legal Sub-Committee should therefore restrict itself to confirming the consensus reached in the Scientific and Technical Sub-Committee at its twenty-seventh session (A/AC.105/C.1/L.168, para. 15, reproduced in A/AC.105/456, annex III) and expressing it in legal language without altering the substance. The working paper (A/AC.105/C.2/L.177) which had been submitted by Canada, the Federal Republic of Germany and France and which reflected the substance of the Scientific and Technical Sub-Committee's recommendations was supported by his delegation.

29. He regarded the principles concerning notification and safety assessments as necessary requirements. The launching State must provide information on the presence of NPS on board objects launched into outer space, as well as technical details of their use. However, reference to the Convention on the Registration of Objects Launched into Outer Space could perhaps be avoided, as Canada had done in document A/AC.105/C.2/L.154/Rev.5, if it caused problems for some delegations. There could also be flexibility in respect of the time when notification should be given, with a view to promoting a consensus. In his delegation's opinion, safety assessments should be carried out prior to launch by the launching State, which would have all the necessary scientific and technical knowledge of the design and construction of the space object with an NPS on board, so that the deadlines and criteria for safe use in draft principle 3 were strictly observed.

30. The draft principles concerning responsibility and liability were not as controversial as the ones to which he had just referred. Important legal issues had nevertheless been raised in that regard, perhaps because of the attention recently paid by international lawyers to the general issue of international liability for the injurious consequences arising out of ultrahazardous activities not prohibited by international law. Launching space objects with NPS on board was undeniably an ultrahazardous activity. However, his delegation did not think that the Sub-Committee had to await the conclusion of the codification exercise in the general field in order to adopt its own principles in respect of liability. It should, rather, put the problem in its proper context and then develop rules to suit its specific purpose.

31. The principles relating to liability and determination of compensation would be the most important in the unfortunate event of an accident. The amount of compensation could obviously be determined only on the basis of the extent of the damage. Whereas the assessment of damage was thus solely a question of fact, the amount of compensation would have to be set in accordance with international law, as stated in paragraph 2 of draft principle 9. However, it was perhaps not really material to refer in that paragraph to the "principles of justice and equity". If there were any valid reasons for retaining that wording, his delegation would like to hear them so that it could consider them on their merits. It also stressed that responsibility for the scientific and technical aspects of the use of NPS systems, including their design and construction, observance of the criteria and guidelines for their safe use and the conduct of safety assessments, should lie with the manufacturing State, particularly if that State was not the launching State, for the simple reason that the latter would probably not possess the necessary scientific knowledge or technical know-how.

32. Since draft principle 11 on the relationship with international treaties was not controversial, he hoped that it could be adopted without difficulty once the substantive problems raised by other draft principles had been solved.

33. He emphasized the importance of finalizing the draft principles relevant to the use of nuclear power sources in outer space speedily, in view of the ambitious space missions which had been announced and the fact that nuclear power sources would doubtless be widely used for such large-scale missions. His delegation would do everything in its power to promote a broader consensus on the various outstanding principles and hoped that the ongoing informal consultations would contribute to that end.

34. Mr. CHAMBERLAIN (United Kingdom) said that his delegation regarded the consensus reached on draft principle 3 in the Scientific and Technical Sub-Committee as a major step forward. It therefore welcomed the fact that the Legal Sub-Committee had focused its attention on putting the draft principle into legal language during the informal consultations it had held on agenda item 3. It took note with satisfaction of the progress made in that context and, in particular, of the working paper submitted by Canada, the Federal Republic of Germany and France (A/AC.105/C.2/L.177).

35. It was nevertheless concerned that the delicate compromise which the Scientific and Technical Sub-Committee had reached might be upset if delegations introduced into the compromise text ideas on which there had been no general agreement in the Scientific and Technical Sub-Committee or if they attempted to alter the substance under the guise of putting it into legal language. It therefore urged delegations to resist any attempts to shift the balance of the text and to accept the compromise text adopted by the Scientific and Technical Sub-Committee, making only such changes in its form as were necessary from a legal point of view.

36. With regard to the outstanding principles, his delegation stressed the importance of principle 4. Safety assessments ought to be made public and publication of the assessments would mean that it would be superfluous to adopt a separate principle on prior notification. There was also no need to redefine the term "launching State" for that or any other principles to be adopted, as the term had already been defined in the Convention on International Liability for Damage Caused by Space Objects and in the Convention on the Registration of Objects Launched into Outer Space.

37. In his delegation's opinion, the progress made in formulating draft principles 8 and 9 should enable a consensus to be reached on them at the current session. In respect of principle 9, it supported the proposal by the delegation of the Soviet Union that, in the event of a dispute, States should be required to accept binding arbitration on the amount of compensation.

38. The Sub-Committee had a unique opportunity at the present time to make substantial progress in considering agenda item 3 and so conclude its work on the elaboration of principles relevant to the use of NPS in outer space at its current session or the one after. If the opportunity was allowed to slip away, it was unlikely that there would be another. His delegation therefore urged all delegations to spare no effort to reach a consensus.

The meeting rose at 11.35 a.m.

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUB-COMMITTEE

Twenty-ninth session

SUMMARY RECORD OF THE 533rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 9 April 1990, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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General exchange of views (continued)

Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

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The meeting was called to order at 10.45 a.m.

GENERAL EXCHANGE OF VIEWS (continued)

1. Mr. RIVAS POSADA (Colombia) said that the importance of the question of the peaceful uses of outer space was continually increasing because of the rapid pace of scientific and technical progress, whether in the use of new sources of energy, transport, telecommunications or meteorology. Unfortunately, such progress had not been accompanied by comparable advances in legal thinking which would cater for a definition of the basic guidelines for the national and international activities of States. As in other fields, the formulation and application of legal rules would come later, but it was still necessary to define the foundations and criteria for multilateral co-operation in the use of resources which were the common heritage of mankind.

2. His delegation thanked the delegations of Canada, the Federal Republic of Germany and France for submitting the text on principle 3, which would contribute to the consensus the Sub-Committee had to achieve. It welcomed the fact that there seemed to be general agreement on a number of principles, for that bore witness to the the Sub-Committee's efficiency and to the positive results which could be achieved in a climate of tolerance and openness.

3. With regard to agenda item 4, his delegation reaffirmed the position it had held for the past several years, namely, that for practical and legal reasons, it was vital to continue the debate on the definition and delimination of outer space. Such a definition would not only help to lay the legal foundations for the many practical aspects of the peaceful use of outer space, but would also shed light on basic problems relating to the character of the geostationary orbit, which required a legal régime of its own. Although there was no denying the fact that the international community had agreed on principles concerning the nature of outer space, in practice, the absence of definition and delimitation had had the effect that the countries with the necessary technological and economic resources had established permanent positions in the geostationary orbit and had thus obtained what amounted to a de facto right of utilization.

4. His delegation was not at all convinced by the two arguments often put forward in favour of abandoning the consideration of agenda item 4 and discussing item 5 instead. The first argument was that, in practice, neither the definition and delimitation of outer space nor a special legal régime for the geostationary orbit were necessary because the allocation of positions on that orbit and ways and means of using outer space had gradually given rise to adequate technical and administrative definitions. The second argument was that, while there were many practical difficulties in some cases, the lack of agreement and the complexity of the problems involved worked in favour of the idea of abandoning the difficult and thankless task of elaborating legal rules and adopting a purely administrative solution. His delegation believed, however, that problems both past and future, were largely the result of the lack of a legal régime to support the technical and administrative work being done. It was also unacceptable to suggest, on the grounds that it was difficult to achieve a consensus, that efforts should be abandoned to find a satisfactory solution to what was a very real problem, especially in view of the saturation to which the use of the geostationary orbit had led, mainly for the benefit of the technologically advanced countries which had enormous financial resources at their disposal.

5. His delegation reconfirmed its interest in continuing to discuss and consider the ideas contained in the working non-paper prepared by certain Group of 77 countries at the Sub-Commission's preceding session. Various delegations believed that that document could serve as a starting point for work on the question, without prejudice, of course, to further consideration of the criteria contained in document A/AC.105/C.2/L.147, which had been submitted earlier by the delegations of Ecuador, Indonesia, Kenya and Colombia.

6. One way of breaking the deadlock would be for the Sub-Committee to concentrate its efforts on defining the criteria concerning the concept of equity in relation to the use of the geostationary orbit. His delegation was convinced of the sui generis characteristics of that orbit as a limited resource of mankind and therefore defended the position of the developing countries, especially those situated on the equator, which wanted to include in that concept of equity the elements of differentiation recognized by the international community in a wide range of other fields.

7. Colombia shared the opinion expressed by other delegations on the establishment of a working group on item 5 and welcomed the contribution made by the Austrian delegation in that regard. The proposed mechanism would help to further the consideration of item 5, which was closely related to the concerns caused by item 4, but could not be regarded as a substitute for it. Colombia also supported the idea that the Sub-Committee should devote part of its time to finding ways of improving its methods of work, provided that that did not prevent it from carrying out its mandate.

8. Mrs. DIEDERIKS-VERSCHOOR (Observer for the International Astronautical Federation) said that the International Institute of Space Law of the International Astronautical Federation had held its thirty-second Space Law Colloquium in Malaga (Spain) from 7 to 14 October 1989 during the Federation's fortieth Congress. The following subjects had been discussed: legal implications of the application of the principle according to which the exploration and use of outer space had to be developed for the benefit and in the interest of all States, taking particular account of the needs of developing countries; legal aspects of the protection of the outer space environment; legal status of the geostationary orbit in the light of the recent activities of ITU; and other space law issues. The proceedings of that Colloquium would be published by the American Institute of Aeronautics and Astronautics, whose headquarters were in Washington, D.C. (United States of America).

9. The Federation's next Congress would take place in Dresden (German Democratic Republic) from 8 to 13 October 1990. The four topics to be discussed at the International Institute of Space Law Colloquium to be held there were: legal implications of space commercialization; space activities and legal aspects of the protection of the global environment; recent developments in space law; and other legal questions.

10. Noting that the International Institute of Space Law was always interested in new developments she drew the Sub-Committee's attention to the fact that consideration had been given to the question whether it would be desirable to draw up the basic outlines of a legal régime for the exploitation of the natural resources of the moon and other celestial bodies.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (A/44/20; A/AC.105/430; A/AC.105/546)

11. The CHAIRMAN, introducing agenda item 4, drew the attention of the Sub-Committee to chapter II of its report on its twenty-eighth session (A/AC.105/430), as well as to the report of the Chairman of the Working Group on that agenda item, as contained in annex II of that report. The Sub-Committee's work on the definition of outer space and the geostationary orbit had been considered by the Committee on the Peaceful Uses of Outer Space in June 1989 and an account of that consideration was to be found in paragraphs 93 to 99 and 122 (b) of the Committee's report (A/44/20).

12. He also drew attention to chapter VI of the report of the Scientific and Technical Sub-Committee (A/AC.105/456), which had considered the question of the physical nature and technical attributes of the geostationary orbit in New York in February-March 1990. In its resolution 44/46, the General Assembly had recommended that the Legal Sub-Committee should continue to consider agenda item 4, taking due account of the concerns of all countries, particularly those of developing countries. At the beginning of the present session, the Sub-Committee had, in compliance with that General Assembly resolution, re-established the Working Group on agenda item 4 and had elected as its Chairman the representative of Argentina, Mr. E. Zawels.

13. Mr. VERESHCHETIN (Union of Soviet Socialist Republics) said that, in his country's view, the question of the delimitation of airspace and outer space, which was linked to the definition of the upper limit of the application of State sovereignty and the scope of the régime of freedom to use and explore outer space, called for a set of international legal rules. As a result of the growth of the activities of States with regard to the use and exploration of outer space, as well as other factors associated with advances in space technology and, in particular, the development of space transport systems, the consideration of problems relating to the delimitation of outer space was becoming increasingly relevant. Various countries were carrying out technical and scientific work on future air and space transport systems. Aviation principles had already been applied to some extent in the design and operation of multiple-flight space systems of the space shuttle or "Buran" type.

14. Thanks to the use of the atmosphere's resources, air and space systems now had qualitatively new operating characteristics related to the possibility of carrying out extended flights in the atmosphere at supersonic speeds in order to change orbit, re-enter the atmosphere for short periods, conduct aerodynamic manoeuvres on the orbit and lateral manoeuvres for landing, as well as to perform special tasks at sub-orbital régimes. In order to optimize the energy mass, reduce operating expenses and prevent damage to the environment, future means of inter-orbital transport would make use of the special features of the atmosphere. Experts believed that, in view of the pace of technological development, the construction and operation of re-usable inter-orbital transport systems carrying out aerodynamic manoeuvres in order to change orbit would become possible in the near future.

15. In his delegation's opinion, that all proved that, in order to maintain genuine sovereignty over their airspace, States would sooner or later - and better sooner than later - have to draft a treaty defining the upper limits of sovereignty over airspace and, as a first step, to determine the legal régime for the use of air and space craft. Several approaches had been taken during the discussion of the question of the delimitation of airspace and outer space. According to his delegation, the prevailing opinion was that the boundary between airspace and outer space was equivalent to the minimum perigees of the Earth's artificial satellites. In the doctrine of international law, it was a widely held view that, on the basis of established practice, the recognition of the legal importance and significance of that practice and the opinion expressed by a large number of qualified experts in public law from various countries, it could be concluded that, in international law, the practice was being established that outer space began at the altitude of the minimum perigees of the Earth's artifical satellites or, in other words, approximately 100 kilometres above sea level. As experts in space law had emphasized, such a broad delimitation of outer space in no way prevented States from having different views, not only as far as agreeing on a clearer and more precise boundary, but also on whether it was even necessary, at the current stage, to establish such a delimitation by way of an agreement.

16. In that context, the Soviet Union, by confirming rather than renouncing its earlier proposals, was insisting neither on an immediate solution to the question of an agreed delimitation of airspace and outer space nor on any one of the possible solutions. It was clear, however, that, even if, in space law, approaches that were both functional and "spatial" were adopted in order to regulate activities conducted in outer space, the limits of State sovereignty, particularly at high altitude, had to be known, as long as such sovereignty continued to be exercised.

17. At the preceding session, his delegation had stated that it was in favour of the consideration, under agenda item 4, of all legal questions relating to flights by aerospace vehicles, an idea which had apparently aroused some interest. The consideration of those problems would, even without a definitive solution to the question of the delimitation of outer space, enable the Sub-Committee to break the deadlock and give its work a parallel orientation. His delegation therefore proposed if other delegations so agreed, that the Sub-Committee's report should reflect its intention to consider, on a preliminary basis, the legal questions relating to the operation of aerospace systems at its 1991 session. In that connection, the Sub-Committee might hold an exchange of views on some basic international legal parameters governing flights by such systems, both in outer space and airspace. That would help to determine to what extent it would be appropriate and possible in future to draw up international rules or principles on the operation of air and space vehicles.

18. Lastly, his delegation stressed once again that it was not making the consideration of the legal questions relating to the operation of aerospace vehicles subject to the settlement of the question of an agreed delimitation of outer space and airspace, even though it saw a practical link between those two problems.

The meeting rose at 11.25 a.m.